

1 On February 7, 2011 this Court held a Final Approval hearing in the above-captioned
 2 matter. Following that hearing, by Order dated February 16, 2011, the Court directed the parties
 3 to solicit *cy pres* nominations and ordered Class Counsel to “consolidate the list and submit the
 4 *cy pres* organization and distribution amount nominations to the Court for approval.” Order Re
 5 Nomination Process for *Cy Pres* Recipients, Dkt. 117, February 16, 2011. In accordance with
 6 that Order, Class Counsel submits the following report and nominations.

7 The parties widely solicited applications for *cy pres* funding. As of the March 14, 2011
 8 deadline set by the Court’s February 16 Order, the parties had received 77 applications for *cy*
 9 *pres* funding seeking more than \$35 million altogether. Pursuant to Section 3.4 of the Settlement
 10 Agreement, counsel met and conferred on several occasions to select the final nominations.
 11 Following those meetings, the parties agreed to nominate 12 organizations to receive
 12 \$6,065,000.¹ The organizations and the amounts are:
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14	American Civil Liberties Union, Inc.	\$1,000,000
15	Berkeley Center for Law & Technology	200,000
16	Berkeley Law School, Samuelson Law, Technology & Public Policy Clinic	700,000
17	Berkman Center for Internet & Society at Harvard University	700,000
18	Brookings Institution	165,000
19	Carnegie Mellon, CyLab Usability, Privacy & Security Lab	350,000
20	Center for Democracy & Technology	500,000
21	Electronic Frontier Foundation	1,000,000
22	Indiana University, Center for Applied Cybersecurity Research	300,000
23	Stanford Center for Internet & Society	600,000
24	YMCA of Greater Long Beach	500,000
25	Youth Radio	50,000

26 Some of these grants are for a two-year period. A one-page chart listing the 12 organizations and
 27 the work that they will do with the *cy pres* funding appears as Exhibit A. The Court’s February
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29 ¹The common fund created by this settlement contains \$8.5 million. Class Counsel has petitioned
 30 for a fee award of \$2,125,000 and for costs of \$29,286.85; Class Counsel intend to submit a
 31 motion seeking reimbursement of their final costs, including the costs of settlement and *cy pres*
 32 administration, within 30 days of Final Approval of the Settlement. If the Court grants Counsel’s
 33 fee and costs motions, Counsel estimates that approximately \$6 million will remain to be
 34 distributed to the *cy pres* recipients. The parties have agreed that any funds remaining in the
 35 Common Fund after payment of attorneys’ fees and costs should be distributed pro rata (i.e.,
 36 based on the funding levels set forth above) to the *cy pres* recipients.

1 16, 2011 Order also directed Class Counsel to submit seven (7) specific pieces of information for
2 each nominated group. *Id.* at 2. Attached to this filing as Exhibit B are 12 one-page summaries
3 listing the information required by the Court's February 16 Order.
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5 The 12 nominated organizations represent a broad cross-section of groups. The groups
6 work on privacy issues in disparate ways: some undertake advocacy, including litigation-related
7 work (such as the American Civil Liberties Union, the Electronic Frontier Foundation, and
8 Berkeley Law School's Samuelson Law, Technology & Public Policy Clinic); other groups do
9 lobbying-related work (Center for Democracy & Technology); while a number of the groups do
10 privacy-related research and education (such as Stanford University's Center for Internet &
11 Society and the Carnegie Mellon University's CyLab Usability, Privacy and Security Lab, which
12 researches mental models that will encourage consumers to protect their own privacy). Like the
13 class itself, the nominated organizations are spread throughout the United States. And the
14 nominated organizations will provide services to traditionally underserved populations: nominee
15 YMCA of Long Beach, for example, aims to train 10,000 low-income citizens on internet
16 privacy-related issues, and nominee Youth Radio focuses on low-income youth to raise
17 awareness of privacy-related internet concerns. The nominees will use the Settlement's Common
18 Fund in ways that are directly related to and consistent with the Class's claims in this case and
19 the landmark amount of funding made available will significantly increase the amount of
20 privacy-related research and advocacy work in the United States.
21

22 With the filing of this Report, Class Counsel has separately filed an updated Final
23 Approval Order that (1) reflects the nominations made herein and (2) recognizes that Class
24 Counsel will file a motion for reimbursement of the costs they have incurred since Class
25 Counsel's Final Approval filing in December 2010 within 30 days of Final Approval of the
26 Settlement. Class Counsel respectfully request that the Court approve the 12 nominated
27 organizations at the suggested funding levels and enter the proposed Order Granting Final
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1 Approval to the Settlement, certifying the Settlement Class, appointing class representatives and
2 Class Counsel, approving Class Counsel's fees and expenses, and enabling Counsel to file a final
3 expense motion following Final Approval.

4 Respectfully submitted,

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6 DATED: March 25, 2011

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